



INTERNATIONAL COUNCIL
OF CRUISE LINES

STATEMENT OF
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ON

INTERNATIONAL MARITIME SECURITY

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON GOVERNMENT REFORM

**SUBCOMMITTEE ON NATIONAL SECURITY, EMERGING THREATS AND
INTERNATIONAL RELATIONS**

AND THE

**SUBCOMMITTEE ON CRIMINAL JUSTICE, DRUG POLICY AND HUMAN
RESOURCES**

ON

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Good morning Chairmen and members of the Committee. My name is Michael Crye; I am the President of the International Council of Cruise Lines. Thank you for the opportunity to present testimony on behalf of the cruise industry.

The ICCL is the cruise industry trade association representing 15 leading cruise lines and approximately 100 companies providing goods and services to the member lines. Our members carry approximately 90% of the passengers in the North American vacation market. The mission of the ICCL is to participate in the regulatory and policy development process and promote all measures that foster a safe, secure and healthy cruise ship environment. The ICCL advocates industry positions, actively monitors international shipping policy, and helps to formulate, review and update best industry practices for and among its membership on a wide variety of issues. The trade association regularly attends meetings as a non-governmental consultative organization to the International Maritime Organization (IMO), and also represents its membership at the International Labor Organization. ICCL vessels operate around the globe and call at more than 800 ports worldwide.

Today, I am testifying about our security practices and jurisdictional protocols and how many people have cruised safely over the past few years, however, there have been a few passengers that have regrettably had other experiences. My testimony cannot lessen their pain, no matter how rare the incidents are that we talk of today. It doesn't make them any less relevant or serious. We recognize that and send our sympathies and condolences to those passengers and their families.

Over the past 20 years, the cruise industry has grown at a rate of approximately 8 percent per year while continuing to be rated as one of the highest vacation options with outstanding guest approval ratings. The industry also has an enviable record when it comes to safety and security. In 1995, the U.S. Coast Guard published the *Report of the Cruise Ship Safety Review Task Force* and issued the following opinion: **“Passenger Vessels operating from US ports are among the safest modes of transportation available.”** I know of no reason for this opinion to have changed in the past ten years.

For many years, cruise lines have had on board security plans and procedures in place. These plans were tested by the events of 9/11. That day, by any measure, was a landmark event for the United States as well as the international community. On the afternoon of 9/11, the ICCL convened a conference call of our membership and, by acclamation, our members raised shipboard and terminal security practices to the highest level that was identified under the existing security plans on file with the U.S. Coast Guard. These practices, which form the base line for what is in place today, include x-raying or examining every person, piece of luggage and all supplies loaded on board the vessels. All passengers are screened prior to boarding and properly identified with appropriate reservations and traveling documents. Each crewmember, under longstanding practice for vessels operating from U.S. ports, holds a U.S. seafarers visa and has thus undergone a U.S. State Department background check prior to visa issuance and serving on the vessels. Because of these proactive measures, ICCL members achieved the highest security level on the morning of Sept. 12, 2001, an achievement that many other modes of transportation continue to struggle with today. In addition, beginning on Sept. 12, 2001, the

ICCL began a series of daily conference calls with U.S. security agencies that lasted for approximately the next 90 days.

In the aftermath of 9/11, Congress passed landmark legislation, the Maritime Transportation Security Act (MTSA), and concurrently, the United States led the way to a new international agreement called the International Ship and Port Facility Security (ISPS) Code, which was finalized at the International Maritime Organization (IMO) as part of the International Convention for Safety of Life at Sea in 2002. MTSA and the ISPS Code became effective throughout the world on July 1, 2004. Under both U.S. law as well as the ISPS Code, cruise ship security plans and practices were utilized as the blueprint for the development of those that are applicable throughout maritime industry today.

These security requirements include: Comprehensive ship and terminal security assessments, extensive ship and terminal security plans that are approved by relevant authorities, designation of qualified company, ship and terminal security officers, mandatory security drills and exercises, Ship Security Alert Systems, periodic audits with subsequent updating of security plans as indicated, and requirements for improved communication and coordination between ship and terminal operators.

In the United States and other countries, requirements have been enacted so that ships must provide specific pre-arrival or pre-departure information to appropriate authorities. That information includes the name, date of birth, address, citizenship, passport or traveling document number and other data for each and every person on board. This information, normally provided

96 hours before arrival in port and prior to departure for any cruise ship whose voyage is originating in the United States, is screened by authorities to identify persons who should not be sailing or are wanted for some crime.

The ICCL is proud to have played an important role in the development of the world standard for security practices. These practices have been proven to be effective for our member operators and demonstrate that in the event of a security incident, there is an established plan that can be rapidly implemented. Each and every crewmember on board and in the management chain knows what his or her responsibilities are and has the training to accomplish his/her assigned responsibilities. These are the goals of any effective security plan, and we have very mature programs in this regard.

There has been much debate over the idea that ships that are not flagged in the United States must rely, at least to some degree, on foreign governments to provide protection for U.S. citizens. However, various nations, *such as the United States*, can and regularly do assert jurisdiction over ICCL vessels under international law based upon a number of well-established factors. Congress can enact criminal laws that apply extraterritorially if any of the five criteria below are met:

- First there is “territorial” jurisdiction. If a ship enters or an act occurs within the territory of a particular country, then that country’s laws apply. This is true for any international traveler. Legally, a ship is also considered to be part of the territory of the flag state

where it is registered, and thus the flag state's laws also apply on board that ship, in addition to the laws of the country where the ship is physically located.

- Second, under the “national” theory, the country where any alleged criminal perpetrator resides has jurisdiction over a matter involving the perpetrator's conduct.
- Third, the nation with custody of any alleged perpetrator for certain types of crimes can claim jurisdiction under the “universality” principle. Piracy, for example, has been identified as such a criminal act and every country has jurisdiction to take enforcement action against persons in that country's territory for acts of piracy that occur on the high seas.
- Fourth, under the “passive personality” doctrine, *the nation where the victim resides can exercise jurisdiction over the matter, regardless of where it occurs.*
- *And fifth, any country whose national interests are affected by an incident can assert “protective” jurisdiction.*

From the above discussion one can identify events that could occur for which a number of different countries could have jurisdiction and authority to take enforcement action. The United States can and does assert jurisdiction based on the residence and location of the victim or perpetrator, the site of the incident, the nature of the act in question or our own national interest in the matter, regardless of any other factors such as the ship's registration or itinerary. For example: consider a criminal act perpetrated against a U.S. citizen occurring on a Bahamian flagged ship in the territorial waters of Spain. All three countries may have jurisdiction to apply their laws, to investigate and to take criminal action. It becomes a matter of diplomatic negotiation as to which country takes the lead in applying its laws and which country follows.

Congress has recognized these well-established principles, and has passed several laws that reinforce the notion that the United States may enforce its laws on board ships wherever they operate in the world when U.S. citizens or interests are involved.

Crimes Committed Within the Special Maritime Jurisdiction of the United States (arson 18 USC 81, assault 18 USC, 113, maiming 18 USC 114, murder 18 USC 1111, homicide 18 USC 1112, kidnapping 18 USC 1201, sexual assault, rape 18 USC 2241, and robbery and burglary 18 USC 2111)

The "special maritime and territorial jurisdiction of the United States" has been expanded to include any place outside the jurisdiction of any nation when the offense is committed by or against a national of the United States (*see* 18 U.S.C. § 7(7)). Among the offenses within the special maritime and territorial jurisdiction of the United States are the crimes of murder, manslaughter, maiming, kidnapping, rape, assault, and robbery. Pursuant to 18 U.S.C. § 7(1) there is also jurisdiction over such offenses when they are committed on the high seas or any other waters within the admiralty and maritime jurisdiction of the United States that is out of the jurisdiction of any particular state. *See* USAM 9-20.000 *et seq.* (Maritime, Territorial and Indian Jurisdiction).

In addition, 14 USC 89 provides the U.S. Coast Guard with very broad authority to enforce the laws of the United States on the high seas.

Sec. 89. Law enforcement

(a) The Coast Guard may make inquiries, examinations, inspections, searches, seizures, and arrests upon the high seas and waters over which the United States has jurisdiction, for the prevention, detection, and suppression of violations of laws of the United States. For such purposes, commissioned, warrant, and petty officers may at any time go on board of any vessel subject to the jurisdiction, or to the operation of any law, of the United States, address inquiries to those on board, examine the ship's documents and papers, and examine, inspect, and search the vessel and use all necessary force to compel compliance. When from such inquiries, examination, inspection, or search it appears that a breach of the laws of the United States rendering a person liable to arrest is being, or has been committed, by any person, such person shall be arrested or, if escaping to shore, shall be immediately pursued and arrested on shore, or other lawful and appropriate action shall be taken; or, if it shall appear that a breach of the laws of the United States has been committed so as to render such vessel, or the merchandise, or any part thereof, on board of, or brought into the United States

by, such vessel, liable to forfeiture, or so as to render such vessel liable to a fine or penalty and if necessary to secure such fine or penalty, such vessel or such merchandise, or both, shall be seized.

The Federal Bureau of Investigation (FBI) is the lead agency in enforcing the 18 USC provisions outlined above. In recognition of this fact, in 1999 our membership issued the following public statement implementing a policy of “**zero tolerance for crime:**”

“This policy establishes a single industry standard that requires allegations of onboard crime be reported to the appropriate law enforcement authorities which, for vessels calling on U.S. ports or crime involving U.S. citizens, would include the Federal Bureau of Investigation.

Our companies, and our industry as a whole, have zero tolerance for crimes committed on our vessels. If crimes do occur, the appropriate law enforcement authorities will be called in to investigate and prosecute to the fullest extent of the law. We will continue to cooperate with the authorities to ensure that perpetrators of crime are brought to justice.”

Our commitment in this regard extends equally to law enforcement authorities in other nations, and I therefore draw your attention to international agreements regarding law enforcement between different nations. For example, the Commonwealth of the Bahamas is a flag state where many ICCL member ships are registered. As a commonwealth, the Bahamas has extensive ties to the United Kingdom including coordination of law enforcement and national defense. Most Bahamian laws are derived from UK laws, their courts are very similarly constituted, and the Bahamas maintains a number of bi-lateral and multi-lateral law enforcement agreements with the United States. In addition, the Bahamas is signatory to a number of mutual defense treaties involving the Americas, as are most of our Caribbean neighbors. The membership of ICCL has an excellent cooperative relationship with the Association of Caribbean Commissioners of Police (ACCP) where we are establishing and enhancing systems for ensuring a comprehensive database exists for vetting those persons wishing to work or do business with the cruise industry.

These efforts merely supplement our close working relationship with the FBI and local law enforcement authorities in the ports we serve throughout the United States.

To summarize, the cruise industry is one of the most highly regulated industries in the world today. U.S. law protects American passengers on board cruise ships. The United States is signatory to a number of maritime bi-lateral and multi-lateral agreements with other countries that allow for investigation and prosecution of crimes against Americans. The U.S. Coast Guard has jurisdiction over all ships entering U.S. ports, regardless of flag. The FBI, by virtue of federal statutes and long-standing legal precedent, has jurisdiction to investigate allegations of serious crimes on ships. This power specifically extends to incidents in international waters involving Americans. The FBI routinely exercises this authority throughout the shipping industry. By contrast, victims of crime occurring ashore in foreign countries not in connection with a cruise rarely have recourse to the FBI or its extensive national and international resources.

Through this discussion, I trust I have answered your inquiry regarding what international and national laws pertain to security of Americans on board ships traveling outside of territorial waters. Next, I would like to give an overview of cruise ship security which will address the subcommittee's remaining questions.

Ships are mobile. They travel from jurisdiction to jurisdiction crossing state and national boundaries. Therefore, as outlined, a variety of governmental entities exercise law enforcement authority over each ship based upon where it is located. As mentioned above, alleged criminal acts involving U.S. citizens are reported to the appropriate law enforcement agencies which may include the FBI. Other incidents affecting security are reported to the flag state, in addition to any reporting requirements applicable in the United States, such as Coast Guard incident reports.

Available information indicates that incidents on board ships are extremely low compared to similar incidents reported ashore, undoubtedly due to the nature of a cruise ship environment where passengers and crew are screened and access is strictly limited.

National Statistics:

Missing Persons

Ashore

- More than 2,000 people are reported missing in the United States every day (FBI).
- On average, there are over 100,000 missing persons listed in the National Crime Information System (NCIC).
- Therefore in the United States, one person out of every 2800 goes missing every year

Cruise

- More than 10 million people went on cruise vacations in 2004.
- From reports, it can be estimated that 13 persons (passengers) have gone missing off ICCL member cruise ships in the past two years.
- Therefore in these two years, less than 1 person per 1 million passengers went missing.

Crime

- 1 in every 1,000 people is raped or sexually assaulted each year according to the Bureau of Justice (BJS)
- Cruise ships: 1 alleged sexual assault per 100,000 passengers (based on statistics produced in a court case)
- According to the FBI, there were 1.4 million offenses of violent crime (murder, rape, robbery, aggravated assault) in 2004.
- National Rate: 465.5 violent crimes per 100,000 inhabitants
- Approximately 50 cruise ship crimes against U.S. citizens are reported to the FBI each year (FBI)
- Cruise Ships: 1 crime per 200,000 cruise passengers

While incidents of crime on board cruise ships are rare, we are not dismissive nor do we shirk our responsibility as an industry to acknowledge and address such matters. For those individuals who are missing loved ones, the ICCL and our membership extend our deepest sympathies and assure them that our membership takes all such allegations and confirmed incidents very seriously, reports them to the proper authorities, and fully cooperates in any investigation.

A cruise ship is comparable to a secure building with a 24-hour security guard. Since vessels operate in a controlled environment, access to the ship can be strictly enforced. Crime is extremely rare on board cruise vessels as shown by our previous discussion and in comparison to similar incidents reported ashore. Nevertheless, it is important for all travelers to be observant of one's possessions and in control of one's faculties at all times. Cruise passengers are reminded of this, as they are in any hotel, by safety information, daily bulletins, port visit briefings and the provision of a room safe or safety deposit box. If there are any particular dangers that warrant the implementation of higher security levels on the ship, the Maritime Transportation Security Act (MTSA) requires that passengers be given a briefing to ensure awareness.

All ships operated by ICCL lines maintain strict security protocols, with concomitant training, in compliance with a number of national and international mandates. These are set forth in more detail below.

- Each ship has a designated security officer and a team of security personnel whose sole responsibility is safety and security.
- Ship security personnel are typically former military or law enforcement from around the world and are trained specifically in respect to maritime security as set forth in the ISPS Code and MTSA regulations.
- Extensive security plans were in effect and approved by the U.S. Coast Guard from 1996-2004. In 2004, these plans were updated in accordance with ISPS Code requirements.
- These plans enable the ship to increase its security measures at a moment's notice.

- Ship security personnel are trained in the basic principles of crime scene preservation. Customarily, the scene will be secured awaiting release by the appropriate law enforcement authority.

On a regular basis as well as upon request, the ICCL facilitates the exchange of information between a cruise line and the appropriate law enforcement organizations. Additionally, the ICCL assists in the dissemination of information between ICCL member lines when a security incident is of industry interest. Facilitation is provided by means of e-mails, conference calls and more often through meetings of the ICCL security committee.

In the case of a piracy incident, cruise ships are fitted with Ship Security Alert Systems to immediately notify a competent authority of the attack. The security teams on board are well trained in methods of repelling pirates; however, it is industry policy to not discuss operational security matters in public forums. The ICCL's role in such an incident is to facilitate the exchange of information between government agencies and the cruise line involved. The ICCL will also ensure that all our other member lines are aware of the incident and can take proactive measures for any ships they may have in the vicinity.

The ICCL security committee is comprised of corporate security officers from each cruise line. Many of these corporate security officers have backgrounds in law enforcement, the military or the FBI. Committee meetings have taken place approximately every 60 days since 1996 and include various government enforcement and intelligence agencies to share port and ship

security, law enforcement and criminal information as well as federal intelligence assessments and terrorism information. Agencies involved on either a temporary or permanent basis include:

- United States Coast Guard
- Department of Transportation S-60
- Office of Naval Intelligence
- Department of State
- United States Customs and Border Protection
- Federal Bureau of Investigation
- Department of Defense
- Central Intelligence Agency
- Department of Homeland Security
- Transportation Security Administration

For the purpose of these meetings and sharing classified intelligence and threat assessments, several members of ICCL and the ICCL Security Committee have obtained secret security clearances. In these meetings, items such as best practices, methods of information sharing, threat analysis and coordination are routinely discussed with the specific intent of increased security and safety. The success and value of these information sharing meetings can be gauged by the fact the principals from both industry and the government have continued these meetings for the past nine years despite no requirement to do so.

With regard to training, most of the training provided to company or shipboard personnel is a function of individual company security requirements as mandated by MTSA and/or the ISPS Code. However, the ICCL may facilitate these efforts as exemplified by a recent international conference, the *ISPS Implementation Workshop*, which was jointly hosted with the Florida-Caribbean Cruise Association and the American Association of Port Authorities. This conference focused on the new requirements of the ISPS Code and was attended by 100

representatives from cruise lines, government officials, and countries representing the greater Caribbean Basin, Mexico and South America.

The ICCL has, upon invitation from our member lines, participated in several company security training sessions. Additionally, ICCL and ICCL member cruise lines have participated in numerous regional IMO-sponsored training sessions and security exercises conducted by the United States Coast Guard and the Department of Homeland Security.

As mentioned earlier, ICCL executives fully participated in the drafting and development of the International Ship and Port Facility Security (ISPS) Code at the International Maritime Organization (IMO) which implemented port and vessel security procedures worldwide. Members of the ICCL staff regularly participate in federal committees or working groups such as the Data Management Improvement Act Task Force, the U.S. Customs and Border Protection Airport and Seaport Inspections User Fee Advisory Committee, and the Department of State Shipping Coordinating Committee. In addition, a senior member of the ICCL staff is currently serving on the National Maritime Security Advisory Committee, which provides advice to the Department of Homeland Security regarding matters of national maritime security strategy and policy, international cooperation on security issues and actions required to meet current and future security threats.

To conclude, cruising continues to be one of the safest modes of transportation available today. Our highest priority is the safety and security of our passengers, crew and vessels, and our safety record is a testament, as over 90 million people have safely sailed on cruise ships over the past

20 years. We will continue to work with law enforcement agencies around the world to make sure we have the latest intelligence and security measures in place.

While it is impossible for an outsider to feel the pain of families who are missing their loved ones, what we can do as an industry is to do our best to minimize the chances of crime of any sort on our ships, and if it happens, to do our best to ensure those crimes are properly investigated and prosecuted.